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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/798,236

03/11/2004

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U 015074-0

3561

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11/23/2009

EXAMINER

PERREIRA, MELISSA JEAN

ART UNIT

PAPER NUMBER

1618

MAIL DATE

DELIVERY MODE

11/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/798,236	Applicant(s) SHARMA, ABHAY	
	Examiner MELISSA PERREIRA	Art Unit 1618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 11-15 are pending in the application. Claims 14 and 15 were newly added in the amendment filed 10/9/09.

Response to Arguments

2. Applicant's arguments filed 10/9/09 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharma et al. (US 6,541,193B2) in view of Wolf et al. (*J. Neuroscience* **2002**, 22, 11035-11044) and Faeldt et al. (US 2004/0076583A1) as stated in the office action mailed 4/14/09. The reference of Saba et al. (US 2003/0219782A1) is omitted due to the amendment to the instant claims.

5. Applicant asserts that Sharma et al. does not disclose testing the effect of a chemical agent per se as in the claimed invention where the chemical agent is tested in wild type flies that have not been exposed to a second chemical agent, e.g. anesthesia or ethanol.

6. The instant claims do not exclude the administration of a second chemical agent as the instant claims "comprise the steps of".

Art Unit: 1618

7. Applicant asserts that Faeldt et al. does not disclose a method for screening of a chemical agent for long-term brain plasticity. Although in paragraph [0249] there may be chronic administration of the drug, Faeldt et al. does not disclose nor suggest withdrawal of the drug for 30 days before determining whether there has been an effect on long-term brain plasticity. Although Faeldt et al. does disclose in paragraph [0249] that the animal be contacted with the compound during various stages of the life cycle or that the administration of the compound may be chronic, there is no suggestion of exposing wild type fruit flies to a chemical agent for a period of time and then removing the drug and then determining whether there has been an effect on long-term brain plasticity.

8. The reference of Faeldt et al. was not used to disclose to determine long-term brain plasticity. Faeldt et al. was used to teach that a population of flies may be **acutely** (short course) or chronically contacted with a test agent (p19, [0249]) and that locomotor activity may be examined at a plurality of times during the life of the fly (such as one that was acutely administered a test agent) which encompasses measuring the various locomotor activities in flies contacted with a test agent after they have been removed from the drug containing media of the instant claim 11 (Faeldt et al. p2, [0010]; p20, [0255-0256]). Therefore, it would have been obvious to one skilled in the art to acutely (short course) administer a test agent to flies and then measure various locomotor activities of said flies at a plurality of times during the life of said flies, including 30 days after the removal of the test agent.

Art Unit: 1618

9. Applicant asserts that Wolf et al. does not teach effect on long-term brain plasticity after withdrawal of ethanol.

10. Wolf et al. teaches that flies become immobile upon overexposure to ethanol but recover when a stream of ***air replaces the ethanol*** and the hyperactive phase caused by the smell of the ethanol is attributable to internal accumulation of ethanol affecting nervous system function is indicative of neural plasticity (Wolf et al p11037, paragraph 1).

Conclusion

11. No claims are allowed at this time.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 1618

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA PERREIRA whose telephone number is (571)272-1354. The examiner can normally be reached on 9am-5pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Hartley can be reached on 571-272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael G. Hartley/
Supervisory Patent Examiner, Art Unit 1618

/Melissa Perreira/
Examiner, Art Unit 1618